



Arizona Medical Board

1740 W. Adams St., Suite 4000 • Phoenix, Arizona 85007

Home Page: <http://www.azmd.gov>

Telephone (480) 551-2700 • Fax (480) 551-2705 • In-State Toll Free (877) 255-2212

DRAFT MINUTES FOR TELECONFERENCE MEETING

Held on Monday, August 23, 2021

1740 W. Adams St., Board Room A • Phoenix, Arizona

Board Members

R. Screven Farmer, M.D., Chair
James M. Gillard, M.D., M.S., F.A.C.E.P., F.A.A.E.M., Vice-Chair
Lois E. Krahn, M.D., Secretary
Jodi A. Bain, M.A., J.D., LL.M.
Bruce A. Bethancourt, M.D., F.A.C.P.
David C. Beyer, M.D., F.A.C.R., F.A.S.T.R.O.
Laura Dorrell, M.S.N., R.N.
Gary R. Figge, M.D.
Pamela E. Jones
Eileen M. Oswald

GENERAL BUSINESS

A. CALL TO ORDER

Chairman Farmer called the virtual meeting to order at 8:06 a.m.

B. ROLL CALL

The following Board members participated in the virtual meeting: Chairman Farmer, Vice-Chairman Gillard, Dr. Krahn, Ms. Bain, Dr. Bethancourt, Dr. Beyer, Ms. Dorrell, Dr. Figge, Ms. Jones and Ms. Oswald.

ALSO PRESENT

The following Board staff and Assistant Attorney(s) General participated in the teleconference: Patricia McSorley, Executive Director; Kristina Fredericksen, Deputy Directory; William Wolf, M.D., Chief Medical Consultant; Raquel Rivera, Investigations Manager; and Michelle Robles, Board Operations Manager. Carrie Smith, Assistant Attorney General ("AAG") and AAG Matthew Williams also participated in the virtual meeting.

C. PUBLIC STATEMENTS REGARDING MATTERS LISTED ON THE AGENDA

Individuals that addressed the Board during the Public Statements portion of the meeting appear beneath the matter(s) referenced.

LEGAL MATTERS

D. FORMAL INTERVIEWS

1. MD-20-0291A, STANLEY K. BROWN, M.D., LIC. #14729

Dr. Brown and Attorney Bob Milligan participated in the virtual meeting during the Board's consideration of this matter.

Board staff stated that this matter stemmed from notification of a malpractice settlement involving Dr. Brown. The Medical Consultant ("MC") reviewed Dr. Brown's care and treatment of patient KL and identified deviations from the standard of care including poor post-procedure patient management, leading to a delay in diagnosis and management of infection following facial resurfacing, and inadequate documentation.

Dr. Brown provided an opening statement, noting that he disagreed with the MC's finding that healing was delayed due to untreated infection, and he stated that there was significant swelling that prolonged healing of the skin. Dr. Brown stated that KL had no early signs of scarring and had no infection. He stated that he saw KL on multiple occasions and that the care he provided for her did not cause her scarring. Mr. Milligan also provided an opening statement noting that their expert found Dr. Brown met the standard of care and did not cause any of the patient's complications.

In response to Board members' questioning, Dr. Brown reported on his training and experience in these laser procedures, and explained his post-operative care of the patient. Dr. Krahn pointed out that the Lexapro prescribed by Dr. Brown is not immediately effective and questioned whether the physician offered the patient any alternatives while waiting for Lexapro to become effective. Dr. Brown stated that he did not add anything else to the treatment and that he suggested wearing some type of mittens or wrapping her hands to keep from touching her face.

Dr. Beyer questioned the licensee regarding his training in laser procedures and how his practice has evolved over the years. Dr. Brown stated that in addition to initially completing an intensive course that he completed twenty years ago, he also attended CME conferences as well as completion of other dermatology CMEs. He stated that not a lot has changed in his practice. Ms. Oswald questioned whether the physician's practice changed as a result from this case. Dr. Brown stated that he has changed his patient selection as a result of his experience with treating KL and that he has turned down a lot of laser procedures since this matter arose. Dr. Beyer recognized that Dr. Brown's completion of CME in recordkeeping was a requirement resulting from a previous Board case unrelated to this matter. Dr. Brown clarified that the recordkeeping CME was completed in 2019 after his treatment of KL in 2017.

In response to Dr. Figge's questions, Dr. Brown stated that his current practice consisted of half anesthesia and half skincare, and reiterated that he had not performed laser therapy in ten months. Ms. Jones noted the patient's non-compliance and questioned the physician as to how he would approach a similar situation in the future when a patient is not compliant. Dr. Brown stated that he had considered changing his payment process to incentivize patients to be compliant. Chairman Farmer questioned Dr. Brown as to when it is appropriate to consult other professionals to coordinate the patient's care. Dr. Brown stated that there are only a handful of individuals experienced in these procedures and stated his concerns that involving another provider may potentially harm the results of the laser.

Vice-Chairman Gillard noted that this was a complicated case and stated that based on his review, while there were several mitigating factors identified, he found that the physician engaged in unprofessional conduct in relation to his care and treatment of KL as well as his medical recordkeeping.

MOTION: Vice-Chairman Gillard moved for findings of unprofessional conduct in violation of A.R.S. § 32-1401(27)(e) and (r) for reasons as stated by SIRC.

SECOND: Dr. Krahn

Dr. Bethancourt stated his concerns regarding the use of Retin-A within a short period of time as well as the use of hydrogen peroxide compress to the face.

VOTE: The following Board members voted in favor of the motion: Chairman Farmer, Vice-Chairman Gillard, Dr. Krahn, Ms. Bain, Dr. Bethancourt, Dr. Beyer, Ms. Dorrell, Dr. Figge, Ms. Jones and Ms. Oswald.

VOTE: 10-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

Vice-Chairman Gillard noted that the MC was not critical of the laser procedure and that there were several mitigating factors identified in this case. He stated that he found this matter did not rise to the level of discipline and that he did not believe CME was warranted.

MOTION: Vice-Chairman moved for the Board to issue an Advisory Letter for inadequate management of postoperative wound infection and inadequate medical records.

SECOND: Dr. Beyer

Dr. Krahn spoke against the motion and stated that based on her review of the records and after hearing today's testimony, she was concerned regarding the licensee's skill in managing postoperative complications. Dr. Krahn stated that she was not convinced that Dr. Brown truly reflected the community standard for postoperative management including concerns relating to the prescribing of Lexapro. Dr. Figge stated that there seemed to be a lack of understanding about the appropriate postoperative management and follow up care, and he stated that CME was warranted in this matter. Dr. Bethancourt reiterated his concerns regarding the use of Retin-A and hydrogen peroxide compresses and spoke in favor of requiring the physician to complete additional CME. Vice-Chairman Gillard stated that after hearing from other Board members, he supported amending the motion to include the requirement to complete non-disciplinary CME relating to postoperative wound treatments. Dr. Beyer confirmed his seconding of the motion.

AMENDED MOTION: Vice-Chairman Gillard moved for the Board to issue an Advisory Letter and Non-Disciplinary CME Order for inadequate management of postoperative wound infection and inadequate medical records. While there is insufficient evidence to support disciplinary action, the Board believes that continuation of the activities that led to the investigation may result in further Board action against the licensee. Within six months complete no less than 10 hours of Board staff pre-approved Category I CME in postoperative wound care for dermatological procedures, including treatment of postoperative infection. The CME hours shall be in addition to the hours required for license renewal.

SECOND: Dr. Beyer

Dr. Krahn spoke in favor of the motion and suggested that the CME be intensive, in-person to provide the licensee with a more focused approach on the postoperative management of patients who have undergone dermatological surgery. Ms. Oswald requested the CME emphasize management of patients who are non-compliant with postoperative instructions. Vice-Chairman Gillard spoke in support of the motion and was in favor of allowing the CME to be completed online given the current circumstances relating to the pandemic. Chairman Farmer pointed out that Board staff works with the licensee and had taken note of the Board members' suggestions and concerns.

VOTE: The following Board members voted in favor of the motion: Vice-Chairman Gillard, Dr. Bethancourt, Dr. Beyer, Ms. Dorrell, Dr. Figge, Ms. Jones and Ms. Oswald. The following Board members voted against the motion: Chairman Farmer, Dr. Krahn and Ms. Bain.

VOTE: 7-yay, 3-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

E. FORMAL INTERVIEWS

1. MD-19-0369A, SAHDAR I. CHAUDHARY, M.D., LIC. #44238

AG addressed the Board during the Public Statements portion of the virtual meeting. Mrs. Chaudhary also addressed the Board during the Public Statements.

Dr. Chaudhary and Attorney Steve Myers participated in the virtual meeting during the Board's consideration of this matter. Mr. Myers provided an opening statement on behalf of Dr. Chaudhary. Dr. Chaudhary stated that AG was ultimately transferred to a higher level of care, and he further described the patient as having been threatening towards staff and exhibited volatile behavior. Dr. Chaudhary confirmed that his wife has never practiced medicine following her residency and that she is not registered with the DEA. He stated that his wife was not licensed and was not credentialed at the hospital. Additionally, Dr. Chaudhary reported completion of 15 hours CME by completing PBI's ethics course.

Board staff stated that this matter stemmed from a complaint filed by AG alleging that Dr. Chaudhary allowed his wife to practice medicine and treat patients without a license to do so. Based on the information gathered in this case, Board staff determined that Dr. Chaudhary engaged in unprofessional conduct by failing to maintain adequate medical records, allowing an unlicensed individual to assume patient care and by allowing medical students to treat patients without the physician present. During the Board's investigation, Dr. Chaudhary admitted to authorizing his wife to use his signature stamp, which staff found increased the ability of an unlicensed individual to practice medicine. Additionally, Board staff reported that Mrs. Chaudhary's badge designated her as an "MD" and was referred to at the facility as being a doctor. Mrs. Chaudhary submitted a signed declaration stating that she was Dr. Chaudhary's scribe and was meeting with patients together with the medical students solely for the advancement of their medical education. The Board recognized that Mrs. Chaudhary is not a licensed physician in the State of Arizona.

Mr. Myers provided additional opening argument on behalf of his client.

In response to Board members' questions, Dr. Chaudhary denied allowing his wife to engage in the unlicensed practice of medicine, he clarified that his wife's badge had the designation of "scribe," that she did have access to the signature stamp that was kept in his locked office, that the medical students were provided a template for psychiatric diagnostic interviewing that he did not believe constituted recordkeeping in the medical record, and that his wife met with patients when she served as a scribe for him and when she was training medical students on risk management and safety. Dr. Chaudhary stated that Mrs. Chaudhary underwent the usual hospital risk management training when she was hired and that she did not engage in therapeutic conversations with patients.

Dr. Krahn stated her concerns regarding a scribe joining an inpatient psychiatric unit with patients who could present a safety risk without training. Ms. Jones noted that Mrs. Chaudhary was not licensed to practice medicine in any jurisdiction and questioned the scope of the training she provided for the medical students on the psychiatric unit. Dr. Chaudhary explained that his wife provided risk management training as well as training on safety issues, and that she also educated the students regarding DSM-V criteria. Dr. Figge noted that the signature stamp may be recommended by hospital administration to clarify who is writing the order and that the hospital was responsible for training the scribe. Dr. Chaudhary reiterated that the chart notes were not finalized or completed until after his review and signature.

Ms. Oswald stated that she found the physician engaged in unprofessional conduct in relation to the accuracy in his medical recordkeeping, the lack of direction or supervision

of medical students and scribe that were assigned to the licensee, and the possibility for patients to conclude that Mrs. Chaudhary was serving as a physician at the facility.

MOTION: Ms. Oswald moved for findings of unprofessional conduct in violation of A.R.S. § 32-1401(27)(e) and (jj) for reasons as stated by SIRC.

SECOND: Ms. Bain

Dr. Figge spoke against the motion and commented that the presence of the medical students was not pertinent to the medical record as it was not a matter of patient care, that he did not find that there was a lack of supervision in this matter and that he believed the charting was adequate. Dr. Bethancourt spoke against the motion specific to the finding of a (jj) violation in that medical students were not allowed to document in the medical record per CMS prior to 2020.

Dr. Beyer spoke in support of the motion and stated that it was not clear what Mrs. Chaudhary's role entailed as the licensee's scribe. Dr. Beyer stated his concerns that it appeared the licensee was also unclear as to the role of the scribe and that he found the physician engaged in unprofessional conduct relating to the supervision. Dr. Krahn spoke in favor of the motion and stated that based on her review of the case and after hearing the physician's testimony, it was unclear what Mrs. Chaudhary's role was while working on the psychiatric unit. Dr. Krahn stated her concerns that Dr. Chaudhary had a responsibility to clarify who was interacting with the patient and the roles of the different individuals involved in this psychiatric setting. Dr. Krahn also stated concerns regarding Mrs. Chaudhary's interaction with patients and commented that the practice as described did not sound like any standard of care of a psychiatrist inpatient care unit with which she was familiar.

Ms. Jones spoke in favor of finding a violation relating to the recordkeeping and stated that she agreed with Dr. Krahn's comments and concerns relating to patients possibly concluding that Mrs. Chaudhary was a practicing physician.

VOTE: The following Board members voted in favor of the motion: Chairman Farmer, Vice-Chairman Gillard, Dr. Krahn, Ms. Bain, Dr. Beyer, Ms. Dorrell, Ms. Jones and Ms. Oswald. The following Board members voted against the motion: Dr. Bethancourt and Dr. Figge.

VOTE: 8-yay, 2-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

Ms. Oswald stated that she found the issuance of an Advisory Letter was warranted given the sustained violations, and she asked for her colleagues on the Board for input relating to the appropriate CME recognizing that the physician reported completion of CME in ethics.

MOTION: Ms. Oswald moved for the Board to issue an Advisory Letter for inadequate medical records and lack of appropriate direction of health care providers employed or supervised by the physician. While the licensee has demonstrated substantial compliance through rehabilitation or remediation that mitigates the need for disciplinary action, the Board believes that repetition of the activities that led to the investigation may result in further Board action against the licensee.

SECOND: Ms. Jones

Dr. Krahn stated her concerns regarding the vulnerability of the patient's being treated in the psychiatric unit and stated that she remained concerned that the licensee's wife played a role in the treatment that was inappropriate. Dr. Krahn stated that Dr. Chaudhary had a responsibility to ensure that everyone looking after his patients are appropriately credentialed and functioning within the scope of their employment and

status. She suggested requiring CME in boundary violations relating to the issues of scope of practice, and she also questioned whether this matter had been referred to the Department of Health Services for possible review of how the psychiatric unit was functioning. Dr. Beyer stated that he agreed with Dr. Krahn's comments and stated that this case involved poor practice. He recognized that the physician completed CME in ethics and questioned whether additional CME was warranted.

Ms. Bain stated her concerns regarding the fact that an unlicensed individual's role in this patient's treatment remained unclear. Dr. Figge questioned whether additional CME was warranted given how extensive this matter had been and how closely it was scrutinized. Dr. Krahn stated that there was inappropriate conduct that occurred and that while she supported the issuance of an Advisory Letter, she remained concerned regarding the potential for there to be an unclear role definition between the physician and his spouse in his new practice setting. Ms. Dorrell spoke in favor of requiring the physician to complete additional CME.

VOTE: The following Board members voted in favor of the motion: Vice-Chairman Gillard, Dr. Beyer and Ms. Oswald. The following Board members voted against the motion: Chairman Farmer, Dr. Krahn, Ms. Bain, Dr. Bethancourt, Ms. Dorrell, Dr. Figge and Ms. Jones.

VOTE: 3-yay, 7-nay, 0-abstain, 0-recuse, 0-absent.

MOTION FAILED.

MOTION: Dr. Krahn moved for draft Findings of Fact, Conclusions of Law and Order for a Letter of Reprimand and Probation to complete CME. Within six months, complete the ProBE Course offered by CPEP. The CME hours shall be in addition to the hours required for license renewal. Once the physician has complied with the terms of the Probation, he may petition the Board to request Probation termination.

SECOND: Ms. Jones

VOTE: The following Board members voted in favor of the motion: Chairman Farmer, Dr. Krahn, Ms. Bain, Ms. Dorrell and Ms. Jones. The following Board members voted against the motion: Vice-Chairman Gillard, Dr. Bethancourt, Dr. Beyer, Dr. Figge and Ms. Oswald.

VOTE: 5-yay, 5-nay, 0-abstain, 0-recuse, 0-absent.

MOTION FAILED.

MOTION: Vice-Chairman Gillard moved for the Board to issue an Advisory Letter and Order for Non-Disciplinary CME for inadequate medical records and insufficient supervision of health care providers employed or supervised by the physician. While the licensee has demonstrated substantial compliance through rehabilitation or remediation that mitigates the need for disciplinary action, the Board believes that repetition of the activities that led to the investigation may result in further Board action against the licensee. Within six months, complete the ProBE Course offered by CPEP. The CME hours shall be in addition to the hours required for license renewal.

SECOND: Dr. Figge

Dr. Figge spoke in favor of the motion and stated that this was a fair compromise given the division of the Board in the prior motions. Vice-Chairman Gillard spoke in support of the motion and noted that Mrs. Chaudhary had been listed as a physician with all her credentials online representing her as a medical educator.

VOTE: The following Board members voted in favor of the motion: Chairman Farmer, Vice-Chairman Gillard, Dr. Beyer, Dr. Figge and Ms. Oswald. The following Board members voted against the motion: Dr. Krahn, Ms. Bain, Dr. Bethancourt, Ms. Dorrell and Ms. Jones.

**VOTE: 5-yay, 5-nay, 0-abstain, 0-recuse, 0-absent.
MOTION FAILED.**

The Board discussed issuing an Order for Probation without a Letter of Reprimand, requiring completion of the CME as discussed. Board members described their views on whether they believed discipline was warranted. Chairman Farmer questioned whether further investigation was warranted with regard to the setting in which the care was delivered.

MOTION: Ms. Bain moved for draft Findings of Fact, Conclusions of Law and Order for Probation to complete CME. Within six months, complete the ProBE Course offered by CPEP. The CME hours shall be in addition to the hours required for license renewal. The Probation shall terminate upon proof of successful completion of the CME course.

SECOND: Ms. Jones

VOTE: The following Board members voted in favor of the motion: Chairman Farmer, Vice-Chairman Gillard, Ms. Bain, Dr. Bethancourt, Dr. Beyer, Ms. Dorrell, Dr. Figge, Ms. Jones and Ms. Oswald. The following Board member voted against the motion: Dr. Krahn,

**VOTE: 9-yay, 1-nay, 0-abstain, 0-recuse, 0-absent.
MOTION PASSED.**

F. FORMAL INTERVIEWS

1. MD-20-0761A, KUSHAGRA KATARIYA, M.D., LIC. #47569

Dr. Katariya and Attorney Steve Myers participated in the virtual meeting during the Board's consideration of this matter.

The Board observed that this matter stemmed from notification of a malpractice settlement involving Dr. Katariya's treatment of DF alleging failure to diagnose lung cancer with subsequent metastasis and death. The MC found that Dr. Katariya deviated from the standard of care by failing to acknowledge lung nodules on a CT from February 2018, delaying the diagnosis of lung cancer. The MC noted that due to the aggressive nature of the tumors, the outcome would not have changed had the diagnosis been made on the initial films, and that DF was a poor surgical candidate.

Dr. Katariya described for the Board the changes he has instituted in his own practice since this incident occurred, including development of HIPAA compliant EHR software. He stated that practicing heart and lung surgery for over twenty years sometimes becomes routine, and that this case was a reminder of how extremely critical it is to be diligent and pay attention to every single detail. Dr. Katariya stated that he was sorry for what happened and wished that he could go back and completely review the CT scan images as well as the report. Mr. Myers stated that Dr. Katariya has no prior Board history, that there was no dishonest motive here, and that the physician has undertaken serious and comprehensive remediation to ensure that this type of oversight never happens again. He stated that the physician's oversight in this matter had no effect on the ultimate outcome and pointed out that other members of the patient's treatment team also missed the same incidental finding.

In response to Board members' questions, Dr. Katariya explained that the CT scan was performed in an outpatient facility and sent to his office, and his MA would inform him when it was available online for his review. He stated that he typically reviewed images in the morning for patients he planned to see that day, and that he was not sure why he only looked at this patient's sternum and not the lung. Dr. Katariya further explained that he ordered the imaging due to concern of non-union of the sternum to make sure it was stable given the patient's surgical history. Chairman Farmer stated that an unfortunate error occurred in this case, and that he appreciated the physician's testimony and that he

took responsibility for the error. Dr. Beyer agreed with the Chairman's comments, that this was a consequential error that he found constituted a violation, and he spoke in favor of finding that Dr. Katariya engaged in unprofessional conduct in this case.

MOTION: Dr. Beyer moved for findings of unprofessional conduct in violation of A.R.S. § 32-1401(27)(r) for reasons as stated by SIRC.

SECOND: Dr. Krahn

VOTE: The following Board members voted in favor of the motion: Chairman Farmer, Vice-Chairman Gillard, Dr. Krahn, Ms. Bain, Dr. Bethancourt, Dr. Beyer, Ms. Dorrell, Dr. Figge, Ms. Jones and Ms. Oswald.

VOTE: 10-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

Dr. Beyer commented that he did not believe this case was a true reflection of Dr. Katariya's overall practice and recognized the physician's remediation efforts. Dr. Beyer also noted that the patient had a very aggressive cancer and he spoke in favor of issuing a non-disciplinary Advisory Letter.

MOTION: Dr. Beyer moved for the Board to issue an Advisory Letter for failing to identify a mass on a CT scan. While the licensee has demonstrated substantial compliance through rehabilitation or remediation that mitigates the need for disciplinary action, the Board believes continuation of the activities that led to the investigation may result in further Board action against the licensee.

SECOND: Vice-Chairman Gillard

VOTE: The following Board members voted in favor of the motion: Chairman Farmer, Vice-Chairman Gillard, Dr. Krahn, Ms. Bain, Dr. Bethancourt, Dr. Beyer, Ms. Dorrell, Dr. Figge, Ms. Jones and Ms. Oswald.

VOTE: 10-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

G. FORMAL INTERVIEWS

1. THIS CASE WAS PULLED FROM THE AGENDA.

H. FORMAL INTERVIEWS

1. MD-21-0345A, JOSEPH N. DEVITIS, M.D., LIC. #N/A

Dr. Devitis and Attorney Dan Cavett participated in the virtual meeting during the Board's consideration of this matter.

The Board observed that Dr. Devitis' application was considered by the Board at its July 8, 2021 meeting at which time the Board voted to invite him to appear for a Licensing Interview to discuss the issues identified in this matter. Dr. Devitis applied for an Arizona medical license and disclosed that he was placed on probation during his general surgery residency training, with which he complied and the probation was terminated in August of 2019. Dr. Devitis successfully completed his residency program in June of 2020. The Board recognized that the issues identified during the physician's' residency regarded behavioral problems as well as lack of professionalism and work ethic. The Board also recognized that staff received letters of support from the physician's directors, mentors, and associates from the program.

Dr. Devitis explained that he had behavioral issues relating to anger and dismissive behavior towards staff that resulted in being placed on probation. He stated that he has taken significant steps to address the issues that were previously identified including development of better coping mechanisms. In response to Dr. Figge's questions, Dr. Devitis confirmed that issues arose twice during his postgraduate training, once during his second year and again during his fourth year. Dr. Figge pointed out that the

physician's behavior could directly or indirectly affect patient care and Dr. Devitis agreed that he failed to put patients first when he was having these issues. Dr. Krahn questioned the physician regarding how he planned to address possible triggers going forward. Dr. Devitis explained that his past behaviors occurred when he was trying to prove a point that he was correct and that he has learned what battles are worth fighting and in a more professional manner.

Vice-Chairman Gillard noted that the Board received supporting letters from the physician's faculty and he spoke in favor of granting the license.

MOTION: Vice-Chairman Gillard moved for the Board to grant licensure.

SECOND: Dr. Figge

VOTE: The following Board members voted in favor of the motion: Chairman Farmer, Vice-Chairman Gillard, Dr. Krahn, Ms. Bain, Dr. Bethancourt, Dr. Beyer, Ms. Dorrell, Dr. Figge, Ms. Jones and Ms. Oswald.

VOTE: 10-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

OTHER BUSINESS

I. BOARD MEMBER TRAINING ON THE INTERSECTION BETWEEN CRIMINAL LAW AND BOARD REGULATION

AAG Carrie Smith and AAG Matthew Williams, Health Care Fraud and Abuse Section, Criminal Division, administered a presentation to the Board regarding the intersection between criminal law and Board regulation. Mandatory reporting was among the topics presented by AAG Smith, as well as what constitutes unprofessional conduct and the Board's right to conduct an investigation when a licensee fails to comply with these statutory requirements. AAG Smith also discussed what has to be reported, and that HB2787 defined "moral turpitude" which she stated would be later addressed with a legislative advice memo to the Board. AAG Williams presented to the Board on the potential crimes that must be reported pursuant to A.R.S. § 32-3208, and he explained that charging an individual occurs when a complaint is filed with the court and that it can be done by direct filing or through Grand Jury indictment.

Chairman Farmer stated that he found the statutory language was clear with regard to self-reporting matters that affect their ability to provide care for patients. Dr. Krahn stated her appreciation for the information presented. Ms. Rivera clarified that the Board initiates investigations upon notification of a criminal allegation and that these investigations typically take longer due to the criminal matter occurring parallel to the Board's investigation and other issues such as self-incrimination. She stated that these matters typically remain open with updates from the criminal case proceedings. Ms. Bain questioned the types of charges that would warrant summary action by the Board. Ms. Rivera explained that this would depend on the egregiousness of the charges and the information available to the Board at the time. She confirmed that such egregious matters are not held open and often involve an Interim Consent Agreement or Interim Order.

J. GENERAL CALL TO THE PUBLIC

No individuals addressed the Board during the General Call to the Public.

K. ADJOURNMENT

MOTION: Dr. Krahn moved for the Board to adjourn.

SECOND: Ms. Dorrell

VOTE: The following Board members voted in favor of the motion: Chairman Farmer, Vice-Chairman Gillard, Dr. Krahn, Ms. Bain, Dr. Bethancourt, Dr. Beyer, Ms. Dorrell, Dr. Figge, Ms. Jones and Ms. Oswald.

VOTE: 10-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

The Board's meeting adjourned at 3:04 p.m.



Patricia E. McSorley, Executive Director

DRAFT